



DENTAL BOARD OF CALIFORNIA
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**August 8-9, 2002
Board Meeting
Minutes**

Mr. Michael Pinkerton, Board Vice President, called the meeting to order at 9:05 am. Roll was called and a quorum established.

Members Present

David Baron, Public Member
Newton Gordon, DDS
Lawrence Hundley, DDS
LaDonna Drury-Klein, RDA
Patricia Osuna, RDH
Coordinator
Michael Pinkerton, Public Member
George SooHoo, DDS
Ariane Terlet, DDS
Chester Yokoyama, DDS

Staff Present

Richard DeCuir, Assistant Executive Officer
Alan Mangels, Attorney General Liaison
Norine Marks, Legal Counsel
Anita Scuri, Legal Counsel
Peggy Bagdasarian, Enforcement

Errol Chisom, Legislative Coordinator
La Rita Abdul-Rahman, Secretary
Lynn Thornton, Chief of Enforcement

Absent

Alan Kaye, DDS

AGENDA ITEM 3 Approval of Minutes

The minutes of the May 16-17, 2002 meeting were approved (Yokoyama/Baron) with the following corrections:

- 1) Chanda Wallis, RDH is misspelled. It should be Shanda Wallace.
- 2) The spelling of Dr. Jamie Lazada should be Lozada.

The minutes of the July 10, 2002 meeting were (SooHoo/Baron) approved as presented.

AGENDA ITEM 4 President's Report

In the absence of board president, Dr. Alan Kaye, vice president, Mr. Michael Pinkerton conducted the meeting. Mr. Pinkerton noted that today's agenda was

extremely long, therefore he would be limiting public comment to three minutes other than the Enforcement Monitor and Chief of Enforcement's reports. Mr. Pinkerton asked Mr. Richard DeCuir to provide the board with information regarding a report due to the Sunset Review Committee. Mr. Richard DeCuir received clarification from Mr. Jay Defuria of the Business and Professions Committee on whether or not the board had a report due to the legislature on September 1, 2002 on Sunset Review. Although a report is not due, Mr. Defuria did say a hearing will be held in October or November regarding the board's enforcement monitor report and board activities. Ms. Robin Hartley, consultant for the Sunset Review Committee, was able to explain that because the board just went through the Sunset Review process last Fall, they were not required to submit anything for September 1st. Ms. Hartley confirmed that hearings will be held mid November and that the board will need to respond at that point.

AGENDA ITEM 5 Report on Appointment of Executive Officer

Mr. Pinkerton announced that the board interviewed two candidates at its July 10th meeting and after deliberating in closed session; the board selected Mr. Richard DeCuir as the new Executive Officer. This decision has been presented in writing to Ms. Kathleen Hamilton, Director of the Department of Consumer Affairs, for approval.

AGENDA ITEM 6 Assistant Executive Officer's Report

Mr. Richard DeCuir updated the board on the current budget situation. The Department of Finance has directed state agencies to make reductions to their budgets. The Conference Committee recommended the elimination of 6,000 state positions. The dental board was required to identify vacant positions and put them in priority order of which positions could be sacrificed. Six positions were identified. Five of the six positions are Investigator vacancies.

In addition, another memo from the Department of Finance stated that if any agency wants to augment its budget, for instance, the board had a BCP to add two positions to the Exam Unit, they would have to identify other positions that would be eliminated. As a result, the BCP was returned because the only positions that could be eliminated within the board would be enforcement positions and that is a higher priority.

AGENDA ITEM 7 Policy on Delegation of Auxiliary Items to Committee

Mr. Richard DeCuir requested guidance from the board on how they would like to deal with auxiliary issues that come before the board. Past practices have been inconsistent as to which COMDA issues should go through the Exam Committee and which issues should go directly to the full board. Legal Counsel, Ms. Norine Marks, stated that there are no statutes in place with regard to placing certain items on a committee agenda. Dr. SooHoo suggested that the protocol be established through the Strategic Planning Committee. Ms. Drury-Klein spoke to the issue of the Board's responsibility to all licentiates.

It was m/s/c (Osuna/Yokoyama with Dr. Gordon and Hundley abstaining) that the assignment of agenda items to the board or committee be based on the function of the

committee and not on the basis of the license held.

AGENDA ITEM 8 Approval of Strategic Plan Development Process

A copy of the previous board's strategic plan was provided for review. Mr. Richard DeCuir asked the board's approval to proceed with finding a consultant, developing a contract and begin the establishment of a new strategic plan. Dr. Newton Gordon and Dr. Alan Kaye will work together with staff on this development.

It was m/s/c (SooHoo/Hundley with Ms. Osuna abstaining) to approve the strategic plan process and to have Drs. Gordon and Kaye serve as board representatives to work with the hired consultant.

AGENDA ITEM 9 Enforcement Program

In accordance with SB 826(Figueroa), consultants Benjamin Frank and Joe Hill of NewPoint Group were hired to monitor the board's Enforcement Program and provide a report to the Director of the Department of Consumer Affairs. The initial draft report was provided to each member prior to today's meeting. Mr. Frank and Mr. Hill provided a brief summary to the board and were available to answer questions regarding the report. The Chief of Enforcement, Ms. Lynn Thornton, addressed the board briefly to highlight some of the changes already implemented to address the monitor's concerns.

While the board acknowledges the fact there is a problem relating to the Enforcement process, it was m/s/c (Osuna/SooHoo) that the board president appoint two members of the Enforcement Committee to work with the Enforcement Monitors and staff on issues addressed in the report.

AGENDA ITEM 10 Board Policy on Speaking Engagements

It was motioned by Dr. Hundley and 2nd by Dr. Gordon to delay this agenda item as requested by the board president. The motion died. Ms. Osuna, who initially requested this item be agendized, stated all she wanted to know is if the board or Department had any uniform presentation materials for board members to use when attending speaking engagements. Mr. DeCuir informed Ms. Osuna that the board currently does not have a uniform presentation kit for board members, but if she was interested one could be put together for her.

AGENDA ITEM 11 Approval of The Universidad DelaSalle Bajio School

Dr. Ariane Terlet provided the board with a report of the on-site visit to Mexico. Dr. Terlet recommended a two-year provisional approval. This would allow time to correct the deficiencies that were identified by the on-site team. Because the University was on academic recess, the on-site team was not able to observe direct patient care. As a result, the Technical Advisory Group recommends a revisit in 6 months.

It was m/s/c (Terlet/Gordon) to grant a 2-year provisional certification to the Universidad DelaSalle Bajio School.

AGENDA ITEM 12 Dental Material Fact Sheet Committee Report

Committee Chair, Dr. Chester Yokoyama, addressed the board about his concern of

the readability of the current DMFS. He acknowledged that a rewrite at this time would be cumbersome and without resources. He spoke to the Governor's intent of the new statute and sunset reform bill to require the board to provide a mercury risk fact sheet. As a result, he provided a tentative draft proposal of a consumer-friendly cover sheet that emphasizes and clarifies those points pertaining to mercury. Dr. Yokoyama announced his intent to hold a subcommittee meeting prior to the November board meeting. This meeting will include a presentation of the science that would call for the restrictions of amalgam. He has invited Fritz Lorscheiser, a neonatal biologist and Boyd Haley to speak in support of harm in mercury amalgam fillings. Dr. Hundley asked if Dr. Yokoyama planned to invite speakers with opposing views, so that the board could hear both sides. Mr. Richard DeCuir suggested that an informational hearing be held so that all individuals interested in speaking on this topic could be heard. Committee member, Dr. Ariane Terlet, agreed that an informational hearing should be scheduled in order for the new board to hear the arguments from both sides before constructing a new fact sheet.

Public comment from Ms. Cathy Mudge and Ms. Judy Babcock, both of CDA, request that the board hold an informational hearing to hear the science from both perspectives and that if the discussion is limited to a particular risk group that it is noticed as such. Ms. Donna Russell, representing California Citizens for Healthcare, expressed her opinion that the board has always limited discussions to people in favor of mercury and that it would be a good balance to finally allow someone to speak that feels mercury is harmful. Ms. Collette Glavez of the Center for Public Interest Law expressed her support of Dr. Yokoyama's efforts to fulfill the requirement of the legislature to create a consumer-friendly fact sheet. She also provided the board members with CPIL's analysis of the current Dental Material Fact Sheet. Ms. Anita Tibau of Consumers for Dental Choice informed the board that the United Nations is holding a world summit on mercury September 9-13, 2002. Mr. Frank Cuny of the California Citizens for Health Freedom requested that speakers at the informational hearing present their arguments in writing, citing their research, and that this information be made available to the public. Dr. Ward Echoes, of Livermore, expressed his support to hear the science behind the effects of mercury. Dr. Andy Landerman of Santa Rosa, representing the American Academy of Biological Dentistry, support Dr. Yokoyama's proposals and endorsed the elimination of placing mercury amalgam in the mouth.

AGENDA ITEM 13 General Anesthesia Committee Report

Committee Chair, Dr. Newton Gordon, reported support on the establishment of a independent Blue Ribbon Panel to address or to assess areas of anesthesia, to gather information and make a recommendation and that this panel represent a broad spectrum of dentistry including general dentists. John Yagiela, DDS, has agreed to chair this panel and to add additional members to ensure a broad spectrum of dentistry is represented.

AGENDA ITEM 14 Continuing Education Committee Report

Committee Chair, Ms. Patricia Osuna provided the board with a list of topics she would like discussed at future meetings. She also asked that requests coming from interested parties on a particular subject be forwarded to the committee chair. Karen

Wyant, EO for COMDA, asked the committee to consider an automated CE system. COMDA and the board had a joint contract to begin looking into such a system prior to Y2K at which time the project was stopped.

AGENDA ITEM 15 Diversion Evaluation Committee Report

Committee Chair, LaDonna Drury-Klein, gave an overview of the written committee report. Ms. Drury-Klein, along with staff, is hoping to establish a protocol handbook for all Diversion Committee Members in order to provide direction from the board as to how the DEC members should function within the committee.

AGENDA ITEM 16 Budget Report

Mr. Richard DeCuir gave a general overview of the budget and informed the members that travel and other expenses will not be reimbursed until the new budget is signed.

AGENDA ITEM 17 Enforcement Committee Report

Committee Chair, Mr. Pinkerton, reported on the outcome of the enforcement meeting held yesterday.

- Special Permits for Majed Moawad and Radhika Chigurupati were disapproved due to inconsistencies in documentation. These permits can be resubmitted for approval once the inconsistencies are dealt with. Approval was granted to the Special Permit Application for Christine Peters.
- An Extramural Facility Application submitted Dr. Allen Pulsipher of Murrieta, CA, was approved.
- Issuance of a New License to Replace a Cancelled License for Dr. William S. Pourcho was approved. Application from Wallace M. Remsen, DDS was deferred until Dr. Remsen completes the UOP RT process for evaluation to determine competency level prior to the board's consideration of his application. An appeal to the board's decision to deny issuance of a new license to replace a cancelled license to Dr. Oscar Holtzclaw was heard and the committee voted to uphold the denial.
- An application of Approval of Course in Administration of Oral Conscious Sedation for Minor Patients submitted by UCSF for renewal was approved.

It was m/s/c (Hundley/Baron) to accept the committee report as presented.

AGENDA ITEM 18 Examination Committee Report

Committee Chair, Dr. George SooHoo, reported the outcome of the examination committee meeting held yesterday.

- The minutes of the May Examination Committee meeting were approved as written.
- The issue of Human Subjects in the Licensure Examination was discussed. Public comment was received from CDA representative, John Galbraith. He provided news articles on this subject for the committee to review. Public

comment was also received from several Northern Examiners on this issue. Dr. SooHoo handed out information received from various Testing Agencies and other Associations for the committee to review and discuss at a future meeting.

- A recommendation was made by COMDA to appoint Susan Potter and Rita Atencio as new EF Examiners. It was m/s/c (Osuna/Terlet) to approve.

It was m/s/c (Osuna/Hundley) to accept the committee report as presented.

AGENDA ITEM 19 COMDA Report

COMDA Chair, Ms. Rhona Lee, presented the COMDA report.

It was m/s/c (Baron/SooHoo) to adopt the report as presented.

AGENDA ITEM 20 Approval of Auxiliary Educational Programs

COMDA Chair, Ms. Rhona Lee recommended approval of the Loma Vista Coronal Polishing Course. It was m/s/c (SooHoo/Gordon) to approve.

AGENDA ITEM 21 Amendment to 16 CCR 1070 and 1070.1 – RDA Educational Programs

COMDA recommended that the regulations be amended and set for hearing

It was m/s/c (Klein/Yokoyama) to set for regulatory hearing.

AGENDA ITEM 22 Amendment to 16 CCR 1088, Allow RDHs to Perform Brush Biopsies

COMDA recommended that the regulations be amended and set for hearing. Ms. Osuna explained to the members under what circumstances a hygienist may biopsy. Clarification of the general supervision rule was provided by JoAnn Galliano of CDHA. Dr. Ariane Terlet spoke against a hygienist doing this procedure based on the potential outcome. Ms. Kristie Menage-Bernie of CDHA urged the board to go forth with a regulatory hearing to debate the issues.

It was m/s/c (Osuna/Klein) to set for regulatory hearing.

AGENDA ITEM 23 Independent Consultant Report on Auxiliary Scope of Practice

COMDA Chair, Ms. Rhona Lee, provided the board with a short synopsis of the history behind the Independent Consultant Report. In 1999, the board requested that COMDA began a review of the regulations that define the duties that RDAs and RDHs can perform. To assist in meeting the mandate of B&P Code Section 1754 that it review such duties ever 7 years. In August 1999, COMDA began that review as well as a review of the regulations defining the duties of DAs and EFs and the appropriateness of the entire regulatory scheme.

Legislation resulting from the 2000 Sunset Review of COMDA did not make any changes with regards to scopes of practice except to direct that the Department work with the board and the Joint Legislative Sunset Review Committee to review auxiliary scopes of practice by September 30, 2002. In early 2002, the Department hired the firm Sjoberg & Evanshenk to conduct an independent analysis and report to the

Department by August 1, 2002. Although COMDA provided minutes of pertinent meetings on this issue, COMDA was not actually involved in the analysis or content of the report. At its meeting August 8, 2002, COMDA approved the majority of the recommendations of the consultants' report.

AGENDA ITEM 24 RDHAP Program Application Approval of West Los Angeles College

COMDA recommended the RDHAP license category, no educational programs have applied to the board for approval. The first application has been received from West Los Angeles College for approval. It was m/s/c (Osuna/SooHoo) to approve the application.

AGENDA ITEM 25 RDHAP Curriculum

This agenda item was withdrawn by requestor Ms. Patricia Osuna.

AGENDA ITEM 26 Locations of Course Work for the RDHAP

Ms. Patricia Osuna requested staff to draft proposed language and notice appropriately for the next board meeting.

AGENDA ITEM 27 Use of Devices Intra-Orally by RDAs

Provided as information only.

AGENDA ITEM 28 Unlicensed Dental Assistants – Information/Action

Ms. Barbara Blade addressed the board on behalf of the Alliance. She spoke to the enforcement process of unlicensed dental assistants and how there is no direct monitoring process for enforcement. This item was tabled in order to be referred to the Enforcement Committee for discussion at their next meeting.

AGENDA ITEM 29 Consideration of Amendment 16 CCR Section 1016 – Definition of Courses of Study for Continuing Education

The California Dental Association has agreed to defer this item to the Continuing Education Committee for discussion.

AGENDA ITEM 31 Public Comment

No public comments were given.

AGENDA ITEM 32 Future Agenda Items

Ms. Drury-Klein requested that board president, Dr. Kaye appoint the ad hoc committee to review the periodontal section of the clinical exam with Shanda Wallace, RDH as a member, as reflected in the November 2001 and May 2002 minutes.

She also requested COMDA address the issue with section 1756 of the DPA with regard to the RDAEF programs also not being affiliated with dental programs.

Dr. Ariane Terlet requested that the board set the remaining calendar for 2003 meeting dates and set the Strategic Plan at the next meeting.

As a point of information, Dr. George SooHoo informed the board of the possibility of adding an additional clinical exam at USC November 1-3, 2002.

The meeting was adjourned at 3:00pm.